

TABLE OF CONTENTS

ARTICLE I

Corporate Name  
Page 1

ARTICLE II

Municipal Boundaries  
Pages 1-4

ARTICLE III

Incorporation, Form of Government &  
Powers - Streets and Public Property  
Pages 4-6

ARTICLE IV

The Council & It's Powers  
Pages 6-10

ARTICLE V

The Mayor & His Powers  
Pages 11-12

ARTICLE VI

Elections  
Pages 12-14

ARTICLE VII

Initiative, Referendum & Recall  
Pages 14-17

ARTICLE VIII

Administrative Offices & Departments  
Pages 17-19

ARTICLE IX

Department of Law  
Pages 19-20

ARTICLE X

Corporation Court  
Pages 20-21

ARTICLE XI

Finance  
Pages 21-28

ARTICLE XII

Taxation  
Pages 28-31

ARTICLE XIII

Franchises & Public Utilities  
Pages 31-34

ARTICLE XIV

General Provisions  
Pages 34-40

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CHARTER  
OF  
CITY OF HUNTSVILLE, TEXAS

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PREAMBLE

In thankful recognition of the leadership of Almighty God,  
we, the people of Huntsville, Texas, humbly invoking His  
blessings, do ordain and establish this Charter.

ARTICLE I  
CORPORATE NAME

SECTION 1.01. CORPORATE NAME

All the inhabitants of the City of Huntsville, in Walker  
County, Texas, as the boundaries and limits of said City are herein  
established, shall be a body politic, incorporated under and to be  
known by the name and style of the "City of Huntsville," with such  
powers, rights and duties as are herein provided.

ARTICLE II  
MUNICIPAL BOUNDARIES

SECTION 2.01. BOUNDARIES.

The boundaries and limits of the City of Huntsville shall be  
as follows, to-wit:

2.01  
Beginning at a concrete marker set for a corner of the property of the Texas Department of Corrections, being in the North line of the P. Gray League, Abstract Number 24 and the South line of the Warren Birdsell League, Abstract Number 6, said concrete marker is 4148.6 feet west of the South line of the Warren Birdsell Survey, Abstract Number 6;

Thence with the East line of the Texas Department of Corrections property to the Northeast Right-of-Way of U.S. Interstate Highway Number 45;

Thence in a Southeasterly direction the Northeast Right-Of-Way of Interstate Highway to its intersection with the West City Limit line established in by an Ordinance adopted September 6, 1949;

THENCE South with above mentioned City Limit West line, crossing center line of U.S. Interstate Highway Number 45 at Highway Engineering Station 213 and 34, to corner in the divisional line between the P. Gray League, Abstract number 24 and the Lewis Cox League, Abstract Number 13 being the Northwest corner above mentioned City Limits established in 1949;

THENCE East with above mentioned line being also the 1949 City Limit line 2542 feet for corner which corner is 88 feet West of the Northeast corner of Lewis Cox League.

THENCE South with 1949 City Limit line 2542 feet to corner;

THENCE East, crossing U.S. Interstate Highway Number 45 at Highway Engineering Station 213 and 34, 7110 feet to the West line of the A. T. McKinney 32 acre tract in the E. Davids Survey.

THENCE South with the West line of the McKinney 32 acre tract to its Southeast corner in the Northeast Right-Of-Way of Interstate Highway Number 45;

THENCE ~~ENE~~ Northwesterly with the North line of the Mansir 100 acre tract to its intersection with the West line of the Mansir 100 acre tract as recorded in Volume 63, Page 100 of the City of Houston.

THENCE Southwesterly and Southernly with the Mansir Northwest line and O'Bannion West line to the Southwest corner of the O'Bannion 20.5 acre tract as recorded in Volume 83, Page 436, Walker County Deed Records;

THENCE Easterly with the O'Bannion 20.5 acre tract to the East line of Boettcher Drive;

THENCE Northerly with E. L. Boettcher Drive to the Southwest corner of the Boettcher Highland Park Addition being also the Northwest corner of a 26 acre tract owned by Gibbs Brothers;

THENCE Easterly with the South line of the Boettcher's Highland Park Addition to its Southeast corner;

THENCE Northerly with the East line of Highland Park Addition and that line extended to intersect the Northeast Right-of-Way of the Old Houston Road;

THENCE Northwesterly with the Northeast Right-of-Way of the Old Houston Road to the East line of above mentioned O'Bannion 20.5 acre tract;

THENCE North with said East line of 20.5 acre tract to intersect the South line of the aforesaid McKinney 32 acre tract;

THENCE Easterly with the McKinney South line to its Southeast corner;

THENCE East with the McKinney South line to intersect the Southwest Right-of-Way U.S. Highway 75 ~~xxx~~;

THENCE Northwesterly with the Southwest Right-of-Way U.S. Highway 75 to intersect the East line of the 1949 City Limits which point is 100 feet North of the 1949 City Limit Southeast corner;

THENCE North 4336 feet to the division line between the E. David Survey and the P. Gray League;

THENCE West with said divisional line at 165 feet past the original South east corner of the Texas Department of Corrections Cemetery and at 1044 feet the Southwest corner of said Texas Department of Corrections Cemetery, as relocated and presently fenced, stake corner;

THENCE North at about 844 feet pass a point 1596 feet East of the Southeast corner of the corporate limits of said City, at 1031 feet pass the Northwest corner of said ~~XX~~ Texas Department of Corrections Cemetery, as relocated and presently fenced at 2136 feet cross the Huntsville Branch of the Missouri Pacific Railroad at 2990 feet stake for corner;

THENCE East 1044 feet stake for corner;

THENCE North to its intersection with the center line of U.S. Highway 190;

THENCE 5533 feet East following center line U.S. Highway 190 abutting South line of Huntsville Independent School District to its intersection with the East line of a private road being also the West line of Gibbs Brothers Tract;

THENCE North with the East line of a private road and West line of Gibbs Brothers tract 182 feet to a point on East side of said private road 157 feet;

THENCE in an Easterly direction following the meanders of the North bank of a branch 834 feet to a concrete monument on the North bank of branch for Southeast corner school property;

THENCE North 1048 feet to Northeast corner of school property being also Northwest corner Gibbs Brothers tract;

THENCE South 61 West 373 feet to corner in Gulf States Utilities Company Right-Of-Way;

THENCE North 186 feet to the Southeast corner of the Saint James Lodge and a Northeast corner of the school tract;

THENCE West with the division line of the school tract and the property of St. James Lodge and Johnnie Mae Johnson tract 132 feet to the Southwest corner of the Johnson tract;

THENCE North along the East line of the school tract and the West line of the Johnson tract 124.2 feet to the Northeast corner of school property and the Northwest corner of above mentioned Johnnie Mae Johnson one-fourth acre tract

in the South line of the Old Colony Road;

THENCE following the South line of Old Colony Road in a Southwesterly direction 282.5 feet to intersect the East line of a private 60 foot road running South through School property;

THENCE South 88 degrees 30' West crossing 60 feet road to the Northeast corner of the school's 9 acre tract;

THENCE North to the Center of the Old Colony Road;

~~THENCE following the center of old Colony Road to its intersection with~~  
the East City Limits as established in 1949 which point is North 100 feet from the intersection of the 1949 City Limits line with the center of U.S. Highway 190;

THENCE North following the 1949 City Limit line to its Northeast corner;

THENCE West following the 1949 City Limit line 10,920 feet to its Northwest corner in the East line of Branch Avenue;

THENCE following with the extension of City Limits as recorded in Volume 207, page 656, Walker County Deed Records; Northwesterly with the East side of Branch Avenue and that line extended to the South line of the Department of Corrections, Wynne Farm property, being also the North line of the P Gray League;  
Line;

~~THENCE West with the North line of the P Gray League and South line of~~  
the Department of Corrections to the place of beginning.

SECTION 2.02. EXTENSION OF BOUNDARIES.

(a) Territory adjoining and contiguous to the corporate limits of the City of Huntsville, as defined herein, may be annexed to said City, regardless of the shape or configuration or size thereof, upon application being made therefor, in writing, to the City Council of the City of Huntsville, describing the territory by metes and bounds, sought to be annexed, which said application shall be signed by a majority of those residing in said territory, who are qualified to vote for members of the Legislature of the State of Texas, which said application shall be proved by the affidavit of one or more persons that the signatures thereto are genuine. In the event it is found by the said city council that a majority of said qualified voters residing in such territory are favorable to annexation, then the said city council may, by ordinance, declare such territory annexed to the City of Huntsville, and the same shall thenceforth be an integral part of said City. The provisions of this section shall not be construed to prohibit the owner of any uninhabited territory or property contiguous to the City of Huntsville, as defined in this Charter, from making application to the city council to have the same annexed to the City, and when such application is made and acted upon, an ordinance shall be passed, providing for the annexation of such property, and said property when so annexed, shall be covered by the same rules and regulations as other territory annexed under the provisions of this section.

(b) The Council shall have the power by ordinance to fix the boundary limits of the City and to provide for the alteration and extension of said boundary limits, the annexation of additional territory lying adjacent to the City, and the detachment or disannexation of territory, with or without the consent of the owners and inhabitants of the territory annexed, detached, or disannexed



in any manner not inconsistent with the procedural rules prescribed by Chapter 160, Page 447, Article 1, Acts of the 58th Legislature of the State of Texas, Regular Session, 1963, as heretofore or hereafter amended, the same being the Municipal Annexation Act. Upon the final passage of any ordinance annexing territory, the corporate limits of the City shall thereafter include the territory so annexed, and when any additional territory has been so annexed, the same shall be a part of the City of Huntsville and the property situated therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to all of the rights and privileges of all citizens and shall be bound by the acts and ordinances, resolutions and regulations of the City. Upon the final passage of any ordinance detaching or disannexing territory from the City, the corporate limits of the City shall be reduced by the territory so detached or disannexed.

#### ARTICLE III

##### INCORPORATION, FORM OF GOVERNMENT, AND POWERS

###### SECTION 3.01. GENERAL POWERS.

The City shall have all the power granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution such granted powers. The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or any political subdivision thereof or with the federal government or any agency thereof to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the city and its inhabitants; may acquire property within or without its corporate limits for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease, or condemnation and, subject to the provisions of this Charter, may sell, lease,

mortgage, hold, manage, improve, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of the good government, order, and peace of the City and the welfare, health, morals, comfort, safety, and convenience of its inhabitants. The powers hereby conferred upon the City shall include but are not restricted to the powers conferred expressly and permissively by Chapter 147, Page 307, Acts of the 33rd Legislature of the State of Texas, Regular Session, 1913, enacted pursuant to the Home Rule Amendment of the Constitution of Texas, known as the Enabling Act and including Articles 1175, 1176, 1177, 1178, 1179 and 1180 of the Revised Civil Statutes of Texas, 1925, as heretofore or hereafter amended, all of which are hereby adopted. In addition to the powers enumerated herein and subject only to the limitations imposed by the Constitution and Laws of the State of Texas and by this Charter, the City shall have, without the necessity of express enumeration in this Charter, each and every power which by virtue of Article XI, Section V, of the Constitution of the State of Texas, the people of the City are empowered by election to grant or to confer upon the City by expressly and specifically granting and enumerating the same herein. All such powers whether expressed or implied shall be exercised and enforced in the manner prescribed in this Charter or, when not prescribed herein, in such manner as shall be provided by ordinance of the Council.

#### SECTION 3.02. FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be and shall be known as "Mayor-Aldermanic Government". Pursuant to the provisions of and subject only to the limitations imposed by the Constitution and Laws of the State of Texas and by this Charter, all powers of the City shall be vested in and exercised by an elective Council composed of a Mayor and eight Councilmen, hereinafter referred to as "the Council," which shall enact legislation, adopt budgets, and determine policies of the City.

**SECTION 3.03. STREETS AND PUBLIC PROPERTY.**

The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, public squares, and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park, or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

**SECTION 3.04. STREET DEVELOPMENT AND IMPROVEMENT.**

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the City by laying out, clearing of vegetation, including shrubs, narrowing, widening, straightening, extending, lighting, and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and re-aligning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or part thereof. The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amount and under any procedure not prohibited by the Laws of the State of Texas; provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned, by such improvement.

If improvements be ordered constructed in any part of any such area used or occupied by the tracks or facilities of any railway or public utility, then the City Council shall have power to assess the whole cost of improvements in such area and the added costs of improvements in areas adjacent thereto made necessary by such use or occupancy against such railway or utility, and shall have power by ordinance to provide for the enforcement of such assessment.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with Chapter 106, Page 489, Acts of the Fortieth Legislature of the State of Texas, First Called Session, 1927, as heretofore or hereafter amended, the same being Article 1105b of the Revised Civil Statutes of Texas, 1925.

#### ARTICLE IV

##### THE COUNCIL

##### SECTION 4.01. NUMBER, SELECTION, AND TERM OF OFFICE.

The Council shall be composed of a Mayor and eight Councilmen. The Mayor, unless sooner removed under the provisions of this Charter, shall serve for two year terms, from the first day of May following his election until the first day of May two years later, or until his successor has been elected and duly qualified. Each Councilman, unless sooner removed under the provisions of this Charter, shall serve for two year terms, from the first day of May following his election until the first day of May two years later, or until his successor has been elected and duly qualified.

##### SECTION 4.02. QUALIFICATIONS.

At the time of his election to office and during his tenure of office, each member of the Council shall be a citizen and a qualified voter of the State of Texas and the City of Huntsville, a bona fide owner of taxable real property in the City then and for at least twenty-three months of the twenty-four months immediately preceding, and,

if he be a Councilman from a specific Ward, a resident of such Ward. No member of the Council shall be indebted to the City or be delinquent in the payment to the City of any tax or assessment. No member of the Council shall hold any other office or employment under the City government while he is a member of the Council, nor shall he hold any paid employment under the City government within two years thereafter. A member of the Council ceasing to possess any of the foregoing qualifications shall immediately forfeit his office.

SECTION 4.03. DESIGNATION OF MEMBERS OF COUNCIL AND RESIDENTIAL REQUIREMENTS.

The Mayor shall be designated as such and a candidate for such office may reside anywhere within the City. The eight Councilmen shall be designated as:

- Councilman - Ward 1
- Councilman - Ward 2
- Councilman - Ward 3
- Councilman - Ward 4
- Councilman-at-Large - Position 1
- Councilman-at-Large - Position 2
- Councilman-at-Large - Position 3
- Councilman-at-Large - Position 4

To be eligible as a candidate for Councilman from a specific Ward, a person must be a resident of such Ward. Candidates for all positions of Councilman-at-Large may reside anywhere within the City.

SECTION 4.04. CITY DIVIDED INTO WARDS.

The City is presently divided into four Wards, known as Ward 1, Ward 2, Ward 3, and Ward 4, and shall remain as such until the City is redistricted by ordinance of the City Council.

SECTION 4.05. INVESTIGATIVE BODY.

The Council shall have the power to inquire into the official conduct of any department, agency, office, officer, or employee

of the City, and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry. The Council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. No member of the Council shall ever vote upon any matter involving the consideration of his own official conduct.

#### SECTION 4.06. CITY SECRETARY.

The Council, upon recommendation of the Mayor, shall appoint the City Secretary, who shall serve at the pleasure of the Council. The City Secretary shall keep the records of the Council, and shall have such other duties and responsibilities as may be assigned to him by this Charter or by the Council. The City Secretary shall appoint such assistants to him as may be authorized by the Council. The City Secretary shall furnish two copies of the minutes of all council meetings to the City Library within thirty days after their approval; such copies of minutes of the Council shall become and be maintained as permanent public records.

#### SECTION 4.07. MEETINGS OF THE COUNCIL.

There shall be regular meetings of the Council on the second Tuesday of each month commencing at 7:30 o'clock P.M. Special meetings may be called at any time by the Mayor or by a majority of the Councilmen qualified and serving by giving notice to the City Secretary who shall in turn give notice of such special meetings to all members of the Council at least twelve hours prior to such meeting. Provided, however, any member of the Council, may either before or after such special meeting, waive such notice. All meetings of the Council, regular or special, shall be open to the public and shall be held at the City Hall of the City. The term City Hall as used in this charter shall mean the Council Chambers.

SECTION 4.08. RULES OF PROCEDURE.

The Council shall by ordinance determine its own rules and order of business. A majority of the Council qualified and serving shall constitute a quorum for all meetings for the transaction of all business, but no action of the Council shall be of any force and effect unless it is adopted by the favorable vote of a majority of the members of the Council qualified and serving, unless otherwise provided by this Charter. Minutes of all meetings of the Council shall be taken and recorded, and such minutes shall constitute a public record.

SECTION 4.09. EACH MEMBER PRESENT MUST VOTE ON ALL MATTERS.

Except as otherwise herein provided, each member of the Council in attendance at the council meeting shall vote upon every issue upon which a vote is called. Any member present who fails or refuses to vote under such circumstances shall be recorded as having cast a negative vote.

SECTION 4.10. POWERS OF THE COUNCIL.

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the Council; provided, that the Council shall have no power to exercise those powers which are expressly conferred on other city officers by this Charter.

SECTION 4.11. OVERRIDE OF MAYOR'S VETO.

At any meeting of the Council held not less than seven nor more than thirty days after the Mayor has vetoed any ordinance or resolution of the Council, the Council may, by the affirmative vote of a majority of its members qualified and serving, override such veto, in which event such ordinance or resolution shall be considered finally passed and approved and shall not be subject to further veto.

SECTION 4.12. REMOVAL OF APPOINTED, SALARIED OFFICERS AND  
EMPLOYEES.

Subject only to such limitations as may be imposed by the Laws

of the State of Texas or by this Charter, six of the Councilmen qualified and serving may suspend without pay any appointed, salaried officer or employee of the City. Provided, however, such suspension must be made at a meeting of the Council. Such suspension shall permanently terminate such officer's or employee's appointment or employment with the City without recourse to the officer or employee unless he files a petition with the Council requesting a hearing on such suspension in the time and manner provided for in this Charter.

SECTION 4.13. REINSTATEMENT OF APPOINTED, SALARIED OFFICERS OR EMPLOYEES SUSPENDED WITHOUT PAY.

In the event six of the Councilmen qualified and serving, the Mayor, or the City Comptroller suspends without pay any appointed, salaried officer or employee of the City in the manner authorized by this Charter, such suspended officer or employee may within fifteen days after the date of his suspension file a written petition with the Council requesting a hearing on such suspension. Said petition shall be signed by the officer or employee, shall contain his home address, and shall state whether he desires a public or a private hearing. If the petition is timely and properly filed, the Council shall within ten days thereafter set a time for hearing such petition, such hearing to be held not less than six nor more than twenty days thereafter and to be either a public or a private hearing, as requested by the suspended officer or employee in his petition. The City Secretary shall give written notice of the time of such hearing to the suspended officer or employee at the address shown in the petition by depositing the same, postage paid by registered or certified mail, return receipt requested, in the United States mail at least five days prior to the date of such hearing. All such hearings shall be held at the City Hall of the City. At the hearing, the Councilmen, the Mayor, or the City Comptroller, as the case may be, and the suspended officer or employee shall be given the right to be heard. Within ten days following such hearings, six of the Councilmen qualified and serving may remove such suspension and reinstate the officer or employee to his office or position of employment, in which event such officer or employee shall be entitled to receive all wages



and benefits lost during the period of his suspension. However, if the petition is not timely or properly filed or if six of the Councilmen qualified and serving do not remove the suspension and reinstate such officer or employee, his removal and discharge shall be effective as of the date of his suspension by six of the Councilmen qualified and serving, by the Mayor, or by the City Comptroller. The action of the Councilmen on the question of the removal of such suspension and reinstatement shall be final.

#### SECTION 4.14. PROCEDURE TO ENACT LEGISLATION.

The Council shall legislate by ordinance, and the enacting clause of every ordinance shall be, "Be it ordained by the City Council of the City of Huntsville." The City Attorney shall approve as to legality all ordinances adopted by the Council, or shall file with the City Secretary his written legal objections thereto. Evidence of approval of an ordinance by the City Attorney may be made by notation on the ordinance itself or by separate paper or instrument. Each ordinance finally enacted by the Council shall be signed by the Mayor, subject only to his right to veto, and shall be filed with and recorded by the City Secretary. In the event the Mayor fails or refuses to sign an ordinance after the period in which he may veto the same has expired or in the event he fails or refuses to sign an ordinance passed over his veto, such ordinance shall be signed by the Mayor Pro Tem or by two Councilmen. All ordinances shall be read in open meetings of the Council at two separate regular meetings. Provided, that the second reading may be by descriptive caption only. All ordinances, unless otherwise provided by law or by the terms of such ordinance, shall take effect immediately upon final passage thereof. The requirements for reading ordinances at two separate regular meetings shall be dispensed with when the ordinance is voted upon and passed by unanimous vote of the Councilmen present upon the first reading.

#### SECTION 4.15. PUBLICATION OF ORDINANCES.

Except as otherwise provided by law or by this Charter, the City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine, or forfeiture for any violation of any of its provisions, and every other ordinance required by law or by this Charter to be published, by causing the ordinance, or its descriptive

caption and penalty, to be published at least one time within twenty days after final passage thereof in the official newspaper of the City. The affidavit of such publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the City Secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinances shall take effect ten days after the date of such publication, provided that any penal ordinance passed as an emergency measure shall take effect immediately upon publication.

#### SECTION 4.16. CODE OF ORDINANCES.

The Council shall have the power to cause all general ordinances of the City to be compiled and printed in code form. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the code. The Council shall cause all general ordinances to be codified, recodified, and reprinted whenever in its discretion such is deemed desirable, or when such codification or recodification is required by law. When adopted by the Council, the printed code of general ordinances contemplated by this section shall be in full force and effect without the necessity of such code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when they are published as a code.

#### SECTION 4.17. LIMITATION OF NUMBER OF TERMS OF COUNCILMEN.

No person shall be elected to more than four consecutive regular two year terms as a Councilman.

#### SECTION 4.18. COMPENSATION OF COUNCILMEN.

Each Councilman shall receive a salary of Fifteen Dollars for each regular monthly meeting which he attends.

#### SECTION 4.19. VACANCIES IN OFFICE OF COUNCILMAN.

Vacancies in the office of Councilman arising from any cause

shall be filled by a majority vote of the remaining members of the Council for the unexpired term. However, if two or more vacancies exist at the same time, a special election shall be called in the manner provided for City general elections to elect successors to fill such vacancies for the unexpired terms, unless such vacancies shall exist within ninety days of the next City general election, in which event such vacancy shall be filled by appointment as in other cases. Any person elected or appointed to fill a vacancy in the office of Councilman shall possess all of the qualifications herein required for the office.

#### SECTION 4.20. FORFEITURE OF OFFICE OF COUNCILMAN BECAUSE OF ABSENCE.

Any Councilman who is absent from more than two consecutive regular meetings of the Council, unless such absences are the result of his illness or the conduct of official city business, shall be deemed to have forfeited his office and the Council shall fill such vacancy in the manner prescribed by this Charter.

### ARTICLE V

#### THE MAYOR

#### SECTION 5.01. HEAD OF CITY GOVERNMENT.

The Mayor shall be the chief administrator and executive officer of the City.

#### SECTION 5.02. MAYOR PRO TEM.

At the first meeting following each general city election, the Council shall by election designate one of its member Councilmen as Mayor Pro Tem. The Mayor Pro Tem shall act as Mayor during the absence, disability or disqualification of the Mayor, and shall have the power to perform every act the Mayor could perform if present.

#### SECTION 5.03. ACTING MAYOR.

In the event of the absence, disability, or disqualification of both the Mayor and Mayor Pro Tem at any particular meeting of the Council, the remaining members of the Council shall by election

designate one of their members as Acting Mayor and he shall act as Mayor for such particular meeting and shall have power to perform every act, except the power to remove or suspend officers and employees and the power of veto, the Mayor could perform if present.

#### SECTION 5.04. VACANCY.

In the event of a vacancy in the office of Mayor arising from any cause, the Mayor Pro Tem shall become Mayor for the completion of the unexpired term if one year or less of such unexpired term remains. However, if more than one year of such unexpired term remains, the Council shall within ten days following such vacancy call a special election to be held within not less than forty nor more than sixty days thereafter to fill such vacancy for the unexpired term. The Mayor Pro Tem shall act as Mayor until a successor to the office of Mayor has been elected and duly qualified.

#### SECTION 5.05. GENERAL POWERS OF THE MAYOR.

The Mayor shall have and exercise such powers, prerogatives, and authorities as are expressly or impliedly conferred on him by this Charter or by the Council.

#### SECTION 5.06. PRIVILEGE OF VOTE AND VETO.

The Mayor, as a member of the Council, shall be entitled to vote upon all matters considered by the Council, except in those instances where such privilege of vote is specifically denied him by this Charter. He shall have the power to veto any ordinance or resolution enacted or adopted by the Council, except those ordinances or resolutions which are not subject to the initiative or referendum process under the provisions of this Charter. To be effective, such veto must be accomplished within three days after the final passage or adoption of the ordinance or resolution and must be accompanied by a veto message setting forth in writing the Mayor's reason for such veto, which such veto and veto message must be filed with the City Secretary within such three day period. The City Secretary shall deliver the Mayor's veto and veto message to the Council at its next regular meeting.

**SECTION 5.07. REMOVAL OF APPOINTED, NON-PAID PERSONS.**

Except as may be otherwise provided by the Laws of the State of Texas or by this Charter, the Mayor shall have the exclusive authority to remove from office or position all persons appointed by him to serve on boards, commissions, committees, or agencies of the City or to serve in any similar non-paid offices or positions of the City. The action of the Mayor shall be final.

**SECTION 5.08. SUSPENSION WITHOUT PAY OF APPOINTED, SALARIED OFFICERS AND EMPLOYEES.**

The Mayor shall have the authority to suspend without pay any appointed, salaried officer or employee of the City, except officers and employees of the Department of Finance. Provided, however, notice of such suspension shall be given by the Mayor to the Council at a meeting of the Council held within ten days after the effective date of such suspension. Such suspension shall permanently terminate such officer's or employee's appointment or employment with the City without recourse to the officer or employee unless he files a petition with the Council requesting a hearing on such suspension in the time and manner provided for in this Charter.

**SECTION 5.09. OTHER DUTIES AND POWERS.**

Unless otherwise provided by law or by this Charter, the powers and responsibilities of the Mayor shall include, but shall not be limited by, the following:

- (a) To appoint, as recommended by the Administrative Assistant, and subject to the confirmation and approval by the Council all officers and employees of the City and the Department Heads, members of all boards, commissions, and committees of the City.
- (b) To exercise control and direction over all departments and divisions of the City and to supervise and direct all officers and employees of the City appointed by him.
- (c) To recommend to the Council such measures, resolutions, and ordinances as he may deem proper and necessary.
- (d) To keep the Council fully advised as to the financial condition and needs of the City.

(e) To perform such other duties as may be prescribed by this Charter or required of him by the Council.

SECTION 5.10. COMPENSATION OF MAYOR.

The Mayor shall receive a monthly salary of \$25.00 per month.

SECTION 5.11. LIMITATION ON NUMBER OF TERMS OF MAYOR.

No person shall be elected to more than four consecutive regular two year terms as Mayor.

ARTICLE VI

ELECTIONS

SECTION 6.01. GENERAL ELECTIONS.

The first regular City general election under this Charter shall be held on the first Saturday in April, 1969. Regular City general elections shall be held on the first Saturday in April in each year thereafter. All Councilmen and the Mayor shall be elected for two year terms, provided that the Mayor and Councilmen from all Wards shall be elected on even-numbered years and all Councilmen-at-Large shall be elected on odd-numbered years. In all even-year elections each qualified voter shall vote for not more than one candidate for Mayor and for not more than one candidate for Councilman from the qualified voter's ward. In all odd-year elections each qualified voter shall vote for not more than one candidate for each of the four Council-at-Large positions. Said election shall be ordered by the Mayor or, in the event he fails to do so, by the Council. The City Secretary shall give notice of such election by causing said notice to be published at least forty days prior to the date of such election in the official newspaper of the City.

SECTION 6.02. RUN-OFF ELECTIONS.

In the event any candidate for Mayor or Councilman fails to receive a majority of all votes cast for his particular office at any regular or special election, the Mayor or, if he fails to do so, the Council shall on the first day following the completion of the official count of ballots cast at the first election order a second election to

be held on the fourth Saturday following the date of such order, at which election the two candidates receiving the highest number of votes cast for such particular office in the first election at which no one was elected to such office by receiving a majority of all votes cast for all candidates for such particular office shall again be voted for, and the one receiving the highest number of votes cast shall be elected to such office. The City Secretary shall give notice of such run-off election by causing said notice to be published at least twenty days prior to the date of such election in the official newspaper of the City.

SECTION 6.03. ORDER OF NAMES ON BALLOT.

In all elections, regular or special, first or run-off, the order of names of candidates for a particular office on the ballot shall be determined <sup>by</sup> the Texas Election Code.

SECTION 6.04. REGULATION OF ELECTIONS.

All elections shall be held in accordance with the Laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the Council for the conduct of elections. The Council shall appoint the Election Judges and other election officials and shall provide for the compensation of all election officials in city elections and for all other expenses of holding such elections.

SECTION 6.05. FILING OF CANDIDATES.

Any qualified person who desires to become a candidate for election to the office of Mayor or Councilman shall file with the City Secretary at least thirty days prior to the date of election an application for his name to appear on the ballot. Such application shall clearly designate the office and, if a candidate for Councilman, the Ward or at-Large position to which the candidate seeks election and shall contain a sworn statement by the candidate that he is fully qualified under the Laws of the State of Texas and the provisions of this Charter to hold the office he seeks.

SECTION 6.06. FILING FEES.

An application to become a candidate for Mayor and/or councilman must be accompanied by a filing fee of One Dollar. The payment of such filing fees shall be in cash.

SECTION 6.07. CANVASSING ELECTION AND DECLARING RESULTS.

The returns of every municipal election shall be delivered forthwith by the Election Judges to the City Secretary. The Council shall canvass the returns, investigate the qualifications of the candidates, and declare the official results of the election not later than three days following the delivery of the votes to the City Secretary. The returns of every municipal election shall be recorded in the minutes of the Council by Ward totals when applicable. At each first election the qualified person receiving a majority of all votes cast for the office he seeks shall thereupon be declared by said Council elected. The decision of the Council as to qualifications of candidates shall be conclusive and final for all purposes.

SECTION 6.08. NOTIFICATION AND QUALIFICATION OF CITY OFFICIALS.

It shall be the duty of the City Secretary to notify all persons elected or appointed to office of their election or appointment. All officials newly elected at a City general election may enter upon their duties on the first day of May next following the date of their election. All other newly elected or appointed officials may enter upon their duties immediately. Any official elected at a City general election must qualify by taking and subscribing his oath of office not later than the 31st day of May next following the date of his election; otherwise, the office shall be deemed vacant. All other elected or appointed officials must qualify by taking and subscribing their oath of office within thirty days; otherwise, the office shall be deemed vacant.

SECTION 6.09. SPECIAL ELECTIONS.

The Council may by ordinance or resolution call such special



elections as are authorized by the Laws of the State of Texas and by this Charter, fix the time and place of holding same, and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practicable according to the provisions governing City general elections. It is specifically provided, however, that if the Laws of the State of Texas specify a different period or method of notice of any special election, the time and method provided for therein shall prevail over the general provisions of this Charter.

## ARTICLE VII

### INITIATIVE, REFERENDUM, AND RECALL

#### SECTION 7.01. POWER OF INITIATIVE.

The people of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, except ordinances appropriating money or levying taxes, or ordinances repealing ordinances appropriating money or levying taxes, not in conflict with this Charter or the Constitution or the Laws of the State of Texas. Any initiated ordinance may be submitted to the Council by a petition signed by the qualified voters of the City equal in number to at least twenty per cent of the qualified voters of the City.

#### SECTION 7.02. POWER OF REFERENDUM.

The people reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter, except ordinances authorizing the issuance of either tax or revenue bonds, whether original or refunding bonds, shall not be subject to such referendum. Prior to or within thirty days after the effective date of any ordinance which is subject to referendum, a petition signed by <sup>at least ten percent of the</sup> qualified voters of the City may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereon shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

SECTION 7.03. FORM OF PETITIONS.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the Council, the full text of the ordinance sought to be referred shall be included in such papers. The signatures to the initiative or referendum petitions need not be all appended to one paper, but each signer shall sign his name in ink or indelible pencil, together with a notation showing his residence address and the ward or precinct number and serial number that appear on his poll tax receipt or exemption certificate or such other document as may be prescribed by the Laws of the State of Texas to identify qualified voters under any future legislation. No signature shall be counted where there is reason to believe it is not the actual signature of the purported signer or that it is a duplication either of name or of handwriting used in any other signature on the petition, and no signature shall be counted unless the residence address of the signer is shown, or unless it is signed exactly as the name of the voter appears on the official copy of the current poll list or an official copy of the current list of exempt voters or such other document as may be prescribed by the Laws of the State of Texas to identify qualified voters under any future legislation, or unless the precinct number and serial number that appear on the signer's poll tax receipt or exemption certificate or such other document as may be prescribed by the Laws of the State of Texas to identify qualified voters under any future legislation are noted as above required. Before the signatures on any petition paper may be counted, one of the signers of such petition paper, a qualified voter, shall make oath before the City Secretary or any other officer competent to administer oaths, that the statements made therein are true, that each signature to the paper appended is a genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in his presence.

SECTION 7.04. FILING, EXAMINATION, AND CERTIFICATION OF PETITIONS.

Within thirty days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is properly signed by the requisite number of qualified voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required in Section <sup>7.03</sup> of this Article. In examining the petition, the City Secretary shall write the letters "D. V." (declared void) in red ink opposite the names of signers found not qualified. After completing the examination of the petition, the City Secretary shall certify the results thereof to the Council at its next regular meeting. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient, the City Secretary shall notify the person filing the petition, and it may be amended within ten days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. Within thirty days after such amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient, no further proceedings shall be had with regard to it, except as provided in Section <sup>7.06</sup> below.

SECTION 7.05. COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either: (a) pass the initiated ordinance without amendment within twenty-one days after the date of the certification to the Council; or (b) submit said initiated ordinance without amendments to a vote of the qualified voters of the City at a regular or special election to be held within sixty days after the date of the certification to the Council.

When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed within twenty-one days, it shall be submitted to the qualified voters of the City at a regular or special election to be held not more than sixty days after the date of the certification to the Council.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election.

SECTION 7.06. PETITION SIGNED BY LESS THAN TWENTY PER CENT OF QUALIFIED VOTERS.

If an authorized initiative petition or referendum petition be signed by qualified voters of the City equal in number to at least ten per cent but less than twenty per cent of the qualified voters of the City, then such ordinance, without amendment or alteration, shall be submitted by the Council to the qualified voters of the City at the next City general election that shall be held at any time after sixty days from the date of the City Secretary's certification of sufficiency attached to the petition accompanying said initiated or referred ordinance.

SECTION 7.07. RESULTS OF ELECTION.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the legal votes cast is in favor of an initiated ordinance, it shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by a vote of two thirds of the Council members qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed thereupon repealed and may not be re-enacted by the Council for a period of two years.

SECTION 7.08. POWER OF RECALL.

The people of the City reserve the power to recall any elected officer of the City of Huntsville and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least thirty per cent of the qualified voters of the City, demanding the removal of such elected officers. The petition shall be signed and verified in the manner required for an initiative petition.

#### SECTION 7.09. RECALL ELECTIONS.

The provisions regulating examination, certification, and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient, the Council shall within ten days thereafter order an election to be held within thirty-five days thereafter to determine whether such officer shall be recalled.

#### SECTION 7.10. RESULTS OF RECALL ELECTION.

If the majority of the legal votes cast at a recall election be for the recall of the officer named on the ballot, the Council shall immediately declare his office vacant, and a special election for the filling of such vacancy shall be called and held forthwith in accordance with provisions of this Charter on elections. An officer thus removed shall not be eligible to hold office again in the City of Huntsville within a period of two years from the date of his recall.

#### SECTION 7.11. LIMITATION ON RECALL.

No recall petition shall be filed against an officer within six months after he takes office, and no officer shall be subjected to more than one recall election during a term of office.

### ARTICLE VIII

#### ADMINISTRATIVE OFFICES AND DEPARTMENTS

#### SECTION 8.01. ADMINISTRATIVE OFFICES AND DEPARTMENTS.

There shall be such offices and departments of the City as are established by this Charter and as may be established by ordinance, all of which, unless otherwise provided in this Charter, shall be under the control and direction of the Mayor. When recommended by the Mayor, the Council may abolish or combine one or more offices or one or more departments created by it, and may define, assign, or transfer duties of any such offices or departments of the City from one office or department to another by ordinance.

#### SECTION 8.02. ADMINISTRATIVE ASSISTANT.

Included among the officers authorized by this charter shall

be that of Administrative Assistant who shall derive his duties and responsibilities from those delegated by this charter to the Mayor as whose assistant he shall serve. The person filling this office shall devote his full time and efforts to the City and shall be responsible to the Mayor and Council for the proper administration of all city offices under his direction.

(a) Qualifications. The Administrative Assistant shall have knowledge of municipal administration and shall be familiar with this charter and all ordinances pertaining to his duties. He shall have had prior to his employment at least five years' experience gained as an administrator or executive with an organization of equal complexity to that of the City of Huntsville, provided, however, such experience was not gained as an elected official. No residence requirement shall be imposed for appointment. No other requirements or restrictions related to his employment not specified by this Charter shall be added to these qualifications.

(b) Appointment and term of employment. The person designated as Administrative Assistant shall be appointed by the Mayor, but this appointment shall be subject to confirmation and approval by the Council by an affirmative vote of not less than a majority of the Councilmen qualified and serving, which shall meet to vote on his appointment within 30 days of his nomination. However, no person shall be confirmed for the office of Administrative Assistant until the Mayor shall have caused his qualifications to be published once a week for two consecutive weeks in the official newspaper of the City. The Administrative Assistant, upon his appointment, shall continue to serve until removed from office as hereinafter provided. The Administrative Assistant may be removed and discharged by the Mayor without notice provided the Mayor provides cause for his action in writing to each Councilman within three days following the dismissal. The action of the Mayor in removing

and discharging any person holding the office of Administrative Assistant shall be final.

(c) Duties and Responsibilities. The duties and responsibilities of the Administrative Assistant shall be those delegated and assigned to him by the Mayor and shall include but not be limited by the following:

- (1.) To recommend to the Mayor for appointment, all officers and employees of departments under his supervision.
- (2.) To administer all departments and divisions of the City as directed by the Mayor and to serve as a liason officer between the Mayor and the officers and employees of the City.
- (3.) To prepare for the Mayor recommendations to the Council relating to measures, resolutions, and ordinances that the Mayor may deem proper and necessary.
- (4.) To provide the Mayor such information regarding the financial and administrative functioning of the City <sup>the</sup> as Mayor may require to keep the Council advised concerning the affairs of the City.
- (5.) To assist the Mayor in preparing all reports and resumes required by this Charter or by ordinance.
- (6.) To recommend to the Mayor the suspension without pay of any salaried officer or employee working under his supervision.
- (7.) To perform such other duties as may be assigned to him by the Mayor and authorized to the Mayor by this Charter or by ordinance.

(d) Salary. The Council shall set the salary of the Administrative Assistant upon his initial appointment. The salary so set may be adjusted, upward only, from time to time by the Council provided however the Council can never, without the permission of the Mayor, decrease the salary of the Administrative Assistant.

(e) Council Denied Voice and Vote: The Council shall have neither voice nor vote in the employment or removal and discharge of any person under the direction of the Mayor other than the Administrative Assistant and department heads, it being the intent of this Charter to invest with the Mayor and his Administrative Assistant all control of and responsibility for the administration of City affairs not otherwise limited by this Charter or by ordinance. Any employee suspended, removed or discharged, however, shall have the right to file a petition with the Council requesting a hearing on such suspension in the time and manner provided for in this Charter.

#### SECTION 8.03. DIRECTORS OF DEPARTMENTS.

At the head of each department there shall be a Director. Such Directors shall have supervision and control over their respective departments and may serve as chiefs of divisions within their respective departments. Two or more departments may be headed by the same individual.

#### SECTION 8.04. DEPARTMENTAL ORGANIZATION.

The work of each department shall be distributed among such divisions as may be established by ordinance. Pending passage of ordinance establishing department divisions, the Mayor may establish temporary divisions in any department.

#### SECTION 8.05. BONDS OF CITY OFFICERS.

The Council may require any officer of the City to give bond with such surety and in such sum as may be prescribed by ordinance, which sum shall always be of sufficient amount to protect the City. The premium of such bond shall be paid for by the City.

### ARTICLE IX

#### DEPARTMENT OF LAW

#### SECTION 9.01. CITY ATTORNEY.

There shall be a Department of Law, the head of which shall



be the City Attorney. The City Attorney shall be a competent attorney who shall have practiced law in the State of Texas for at least five years immediately preceding his appointment. The City Attorney shall be the legal advisor of and attorney for all of the offices and departments of the City, and he shall represent the City in all litigation and legal proceedings. He shall draft, approve, or file his written legal objections to every ordinance adopted by the Council, and he shall pass upon all documents, contracts, and legal instruments in which the City may have an interest.

#### SECTION 9.02. ASSISTANT CITY ATTORNEYS.

There shall be such Assistant City Attorneys as may be authorized by the Council. Such Assistant City Attorneys shall be authorized to act for and on behalf of the City Attorney.

### ARTICLE X

#### CORPORATION COURT

#### SECTION 10.01. CORPORATION COURT.

There shall be a Department of Justice known as the Corporation Court of the City of Huntsville, which court shall be deemed always open for the trial of causes, and with such jurisdiction, powers, and duties as are given and prescribed by the Laws of the State of Texas.

#### SECTION 10.02. JUDGE OF THE CORPORATION COURT.

The Corporation Court shall be presided over by a magistrate who shall be known as the Judge of the Corporation Court. He may be either a layman or an attorney-at-law.

In the event the Judge of the Corporation Court is temporarily unable to act for any reason, a qualified person shall be appointed to act in his place.

The Council shall have the power to appoint on recommendation of the Mayor, more than one Judge of the Corporation Court, each of whom shall be a magistrate.

SECTION 10.03. CLERK OF THE CORPORATION COURT.

There may be a Clerk of the Corporation Court who shall be appointed by the Judge of the Corporation Court subject to the approval of the Council. Such Clerk shall have the power to administer oaths and affidavits, make certificates, fix the seal of the Court thereto, and otherwise perform any and all acts necessary in issuing process of such Court and conducting the business thereof.

There may be such Deputy Clerks of the Corporation Court as may be authorized by the Council and appointed by the Judge of the Corporation Court subject to the approval of the Council, which Deputy Clerks shall have authority to act for and on behalf of the Clerk of the Corporation Court.

Any Clerk and Deputy Clerk of the Corporation Court shall be responsible to the Judge thereof and shall be subject to his direction and control.

SECTION 10.04. PROCESS, AND PROCEDURE IN THE CORPORATION COURT.

The style of all writs issued out of the Corporation Court shall be in the name of the City of Huntsville.

All jurors shall be residents of said City and otherwise possess the same qualifications as jurors in the State courts, and they shall be summoned in the same manner as provided for in Justice Courts.

SECTION 10.05. COURT SEPARATE FROM ALL DEPARTMENTS.

The Corporation Court of the City shall always be separate and apart from all departments of the City.

ARTICLE XI

FINANCE

SECTION 11.01. DEPARTMENT OF FINANCE.

There shall be a Department of Finance, the head of which shall be the City Comptroller. The City Comptroller shall have knowledge of municipal accounting, banking, and municipal bonds and shall have had at least five years experience gained through employment in budgeting, accounting, taxation, and financial control;

provided, however, such experience may not be gained as an elected official. Said City Comptroller shall provide a bond with such surety and in such amount as the Council may require. The premiums on such bond shall be paid by the City.

SECTION 11.02. MAYOR DENIED VOICE AND VOTE.

The Mayor shall have neither voice nor vote in the employment or removal and discharge of the City Comptroller nor of any personnel in the Department of Finance, except in cases of a tie vote of the Council concerning removal and discharge, then in the event of such tie vote the Mayor shall cast the tie-breaking vote, it being the intent of this Charter to divest the Mayor of any authority, control, or direction over the Department of Finance, its officers and employees, except where specifically authorized herein.

SECTION 11.03. APPOINTMENT, REMOVAL, AND DISCHARGE OF CITY COMPTROLLER.

The City Comptroller shall be appointed by the affirmative vote of not less than a majority of the Councilmen qualified and serving. However, no person shall be appointed to the office of City Comptroller until the Councilmen shall have caused his qualifications to be published once a week for two consecutive weeks in the official newspaper of the City. The person appointed City Comptroller may be removed and discharged from his office only at a meeting of the Council by the affirmative vote of a majority of the Councilmen qualified and serving. The action of the Councilmen in removing and discharging any person holding the office of City Comptroller shall be final.

SECTION 11.04. PERSONNEL OF THE DEPARTMENT OF FINANCE.

There shall be such personnel in the Department of Finance as may be authorized by the Council. Such personnel shall be appointed by the City Comptroller, subject to the approval of a majority of the Councilmen qualified and serving, and shall be responsible to the City Comptroller and subject to his direction and control.

SECTION 11.05. SUSPENSION WITHOUT PAY OF PERSONNEL OF DEPARTMENT  
OF FINANCE.

The City Comptroller shall have the authority to suspend without pay any officer or employee of the Department of Finance. Provided, however, notice of such suspension shall be given by the City Comptroller to the Council at the next meeting of the Council held within ten days after the effective date of such suspension. Such suspension shall permanently terminate such officer's or employee's appointment or employment with the City without recourse to the officer or employee unless he files a petition with the Council requesting a hearing on such suspension in the time and manner provided for in this Charter.

SECTION 11.06. POWERS AND DUTIES OF CITY COMPTROLLER.

The City Comptroller shall administer and supervise all financial affairs of the City. He shall have the power, the duty, and be required to:

- (a) Have custody of and be responsible for all monies belonging to or under the control of the City or any office, department, or agency thereof, and shall promptly deposit all such monies in the City depository or depositories, which shall be designated by ordinance or resolution of the Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be required by the Laws of the State of Texas and by ordinance of the Council.
- (b) Render a complete and correct statement of all monies received and deposited by him each month to the Mayor and each member of the Council on or before the regular meeting of the month next following and at such other times as the Council may require, in such form as the Council may prescribe.
- (c) Appoint, subject to the approval of a majority of the Councilmen qualified and serving, such deputies, assistants, and employees in his department as the Council may authorize.

(d) Prescribe the forms of receipts, vouchers, bill<sup>s</sup>, claims, and bookkeeping procedures to be used by all offices, departments, and agencies of the City.

(e) Examine all contracts, orders, and other documents by which the City government incurs financial obligations, having previously ascertained that money has been appropriated and allotted and will be available when the obligation becomes due and payable.

(f) Assist the Mayor and all department heads in the preparation of the budgets for all departments.

(g) Compile estimates of revenues and expenditures for the budget as required by the Mayor and all department heads.

(h) Audit and approve before payment all bills, invoices, pay rolls, and other evidence of claims, demands, or charges against the City. The City Comptroller shall, when he deems it necessary, seek the written advice of the City Attorney in order to determine the regularity, legality, and correctness of such claims, demands, or charges prior to presentation of the same to the Council for approval.

*Omit*  
~~(i) Submit in writing an itemized statement of all bills and claims payable by the City to the office or home of each Council member prior to the Council meeting at which the bill or demand will be considered for payment. Copies of this statement shall be made available to each person attending the Council meeting who may be seated, and two copies of the same shall be furnished to the Huntsville Public Library for its public journals at least twenty-four hours prior to such meeting. One or more copies of such statement shall be available in the office of the City Comptroller for public inspection during normal office hours.~~

(i) (1) Submit to each member of the Council a monthly statement\* of all receipts and disbursements in sufficient detail to show the exact financial condition of the City. Two copies of such statement shall be submitted to the Huntsville Public Library for its public journals on the same day of its submission to members of the Council, and one or more copies of such statement shall be made available in the office of the City Comptroller for public inspection during normal office hours.

(j) Publish a financial statement of the financial condition of the City, including the status of all general and special accounts, and bonded and other indebtedness of the City, in the official newspaper of the City in the form and as often as a majority of the Councilmen qualified and serving may require, but at least once each fiscal year. Such financial report must be audited by a Certified Public Accountant who is bonded and has no personal interest, directly or indirectly, in the financial affairs of the City or any of its departments, offices, or agencies. Such audit shall be on a non-certified basis. The auditing Certified Public Accountant shall be appointed by the Mayor, subject to the approval of a majority of the Councilmen qualified and serving, and the same Certified Public Accountant shall perform the annual audits provided for in this Charter for any given fiscal year. Prior to publication, the financial report shall be submitted to the Council for its acceptance or rejection by a majority of the Councilmen qualified and serving. Such acceptance or rejection must be made at a regular meeting of the Council and the results shall be made a matter of record and shall be reflected on the published financial report, which shall be published in the official newspaper of the City. A copy of the financial report as approved or rejected shall be submitted to the Huntsville Public Library for its public journals at the same time it is released for official publication, and one or more copies of such report shall be made available in the office of the City Comptroller for public inspection during normal office hours.

(k) Invest all funds deemed in excess of current needs in the manner authorized by the Laws of the State of Texas; current needs are hereby defined as expenditures to be made within a given ninety day period.

(l) Have custody of all investments and invested funds of the City, or in the possession of the City in a fiduciary capacity, and have the safekeeping of all bonds and notes of

the City and the receipt and delivery of City bonds, warrants, and notes for transfer, registration, or exchange. He shall be responsible for the destruction of redeemed, paid, and cancelled bonds, warrants, and notes.

(M) (m) Supervise and be responsible for the preparation of a sequential list of all checks issued by the City. Such listing shall include the name of payee, amount of payment, and nature of the payment. Such list shall be published along with the minutes of the preceding Council meeting and made available to each person attending the Council meeting who may be seated and shall be furnished to the Huntsville Public Library for filing in its public journals. One or more copies of such list shall be available in the office of the Comptroller for public inspection during normal office hours.

(N) (n) See that every check, voucher, or warrant for the withdrawal of money from the city depository is signed by the Mayor and countersigned by the City Comptroller, except checks in the amount of Twenty-five Dollars or less and checks for refunds of consumer deposits for utilities. In the event the City Comptroller is absent from his duties for a period of time which will not permit him to conduct his duties as outlined in this Article, then each check, voucher, or warrant shall be countersigned by another official in the Department of Finance to be designated by a majority of Councilmen qualified and serving, except checks amounting to Twenty-five Dollars or less and checks for refunds of consumer deposits for utilities. Checks amounting to the sum of Twenty-five Dollars or less may be signed by the Mayor/<sup>or City Comptroller</sup>without any additional signature; however, such payments shall be fully accounted for and thereby recorded for the records within the office of the City Comptroller. It is specifically provided, however, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine

imprinted facsimile signatures of said Mayor and City Comptroller on such checks, vouchers, and warrants.

(o) (o) Maintain a general accounting system for the City government and each of its offices, departments, and agencies; keep books for and exercise financial budgetary control over each office, department, and agency; keep separate accounts for the items of appropriations contained in the city budget, each of which account shall show the amount of the appropriations, the amount paid therefrom, the unpaid obligations against it, and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending office, department, or agency of the City to be made daily or at such intervals as directed by the City Comptroller.

(P) (p) Pay no claim against the City unless it is evidenced by a voucher submitted by the head of the department for which the indebtedness was incurred and approved by the Mayor; each officer and his surety shall be liable to the City for all loss or damage sustained by the City by reason of his negligent or corrupt approval of such claim.

(9) (q) Establish and maintain a fund at all times of not less than One Thousand Dollars to be used for the sole purpose of initiative, referendum, recall, and charter commission elections. Establish and maintain at all times another fund of not less than Five Hundred Dollars for the operation of a charter commission, if one is elected by the qualified voters of the City. Both such funds shall be invested in a manner authorized by the Laws of the State of Texas and such funds shall be reviewed annually to determine that the highest possible rate of interest is being obtained from the investment of such funds. In the event either or both such funds or any part thereof shall be used for the purposes for which created, such fund or funds shall be replenished to the original amount within sixty days out of current city revenue. The interest derived from the investment of such funds shall become a part of and be placed in the General Fund of the City at the close of each fiscal year. Such funds shall be properly budgeted by the Council to comply with the intent of this subsection.



- (K) (r) Establish a Contingent Appropriation Fund in an amount not more than three per cent of the total budget to be used in cases of unforeseen items of expenditure. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed amount of such expenditures shall be immediately recorded and reported.
- (5) (s) To perform such other duties and to have such other powers as may be authorized by ordinance adopted by a majority of the Councilmen qualified and serving, provided such duties and powers are not inconsistent or in conflict with the provisions of this Charter. It is specifically provided that the City Comptroller shall never be required to perform any act which is contrary to the provisions of this Charter.

#### SECTION 11.07. FISCAL YEAR.

The fiscal year of the City shall begin on the first day of April and end on the last day of March of the succeeding year. All funds collected by the City during any fiscal year and, except for funds derived to pay interest and create a sinking fund of the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year, except as provided in this Charter. All revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

#### SECTION 11.08. BUDGET PREPARATION AND ADOPTION.

At least thirty days prior to the end of each fiscal year, the Mayor shall submit to the Council a proposed budget presenting a complete financial plan for the ensuing fiscal year. Such budget shall be prepared and public hearing shall be held thereon in the manner prescribed by the Laws of the State of Texas relating to budgets in cities and towns. The budget shall be finally adopted not later than the 27th day of the last month of the fiscal year. Should the Council take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally

adopted by the Council. No budget shall be adopted or appropriations made unless the total of estimated revenues, income, and funds available shall be equal to or in excess of such budget or appropriations, except as otherwise provided in this Article.

#### SECTION 11.09. APPROPRIATIONS.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. Except as provided in this Article, no funds of the City shall be expended nor shall any obligation for the expenditure of money be incurred, except pursuant to the annual appropriation ordinance provided by this Article. At the close of each fiscal year, any unencumbered balance of any appropriation shall revert to the fund from which appropriated and become available for reappropriation for the next fiscal year. The Council may transfer any unencumbered appropriated balance or portion thereof from one office, department, or agency to another at any time. The Council shall have the authority to transfer appropriation balances from one expenditure account to another within a single office, department, or agency of the City.

#### SECTION 11.10. EMERGENCY APPROPRIATIONS.

At any time in any fiscal year, the Council may, pursuant to this Section, make emergency appropriations to meet a pressing need for public expenditure, for other than regular or recurring requirements, to protect the public health, safety, or welfare. Such appropriations shall be by ordinance adopted by the favorable votes of two thirds of the Council members qualified and serving, and shall be made only upon recommendation of the Mayor.

Should the unappropriated and unencumbered revenues, income, and available funds of the City for such fiscal year be not sufficient to meet the expenditures under the appropriation authorized by this Section, thereby creating a deficit, it shall be the duty of the Council to include the amount of such deficit in its budget for the following fiscal year, and said deficit shall be paid off and discharged during the current fiscal year.

SECTION 11.11. BORROWING TO MEET EMERGENCY APPROPRIATIONS.

In the absence of unappropriated available revenues or other funds to meet emergency appropriations under the provisions of the next preceding Section, the Council may by resolution authorize the borrowing of money to meet such deficit by the issuance of notes, each of which shall be designated "Emergency Note" and may be renewed from time to time, but all such notes of any such fiscal year and any renewals thereof shall mature and be payable not later than the last day of the fiscal year in which the emergency appropriation was made.

SECTION 11.12. BORROWING IN ANTICIPATION OF PROPERTY TAXES.

In any fiscal year, in anticipation of the collection of the ad valorem property tax for such year, whether levied or to be levied in such year, the Council may by resolution authorize the borrowing of money, not to exceed in any fiscal year an amount equal to ten per cent of the budget for that fiscal year. Such borrowing shall be by the issuance of negotiable notes of the City, each of which shall be designated "tax anticipation note for the year 19\_\_" (stating the tax year). Such notes shall mature and be payable not later than the end of the fiscal year in which issued, and may be secured by the pledge of the ad valorem property taxes for such year.

SECTION 11.13. GENERAL OBLIGATION BONDS.

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All bonds shall be issued in conformity with the Laws of the State of Texas.

SECTION 11.14. LIMITATIONS ON BONDED INDEBTEDNESS PAYABLE FROM TAXES.

The maximum bonded indebtedness of the City outstanding at any one time and payable from taxation shall not exceed ten per cent of the assessed valuation of all taxable property on the City's tax rolls.

SECTION 11.15. REVENUE BONDS.

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities, or any other self-liquidating municipal function not prohibited by the Constitution and Laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, pledged, or the income therefrom, or both, and shall never be a debt of the City. All such bonds shall be issued in conformity with the Laws of the State of Texas.

SECTION 11.16. SALE OF BONDS.

All bonds issued by the City shall be sold at public sale upon sealed bids after at least thirty days notice thereof has been published at least once in a publication carrying municipal bond notices and devoted primarily to financial news, and at least thirty days notice thereof has been published at least once in the official newspaper of the City. Such sealed bids must be opened at a meeting of the Council.

No bond, other than refunding bonds issued to refund and in exchange for previously issued outstanding bonds, issued by the City shall be sold for less than par value and accrued interest.

All bonds of the City having been issued and sold in accordance with the terms of this Section, and having been delivered to the purchaser thereof, shall thereafter be incontestable, and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.

SECTION 11.17. USE OF BOND PROCEEDS.

The proceeds of all bonds authorized, issued, and sold by the City shall be used only for the purpose for which voted or authorized and the diversion of any such bond proceeds to any other purpose may be enjoined by any property tax paying citizen of the City.

SECTION 11.18. PURCHASE PROCEDURE.

All purchases made and contracts executed by the City shall be pursuant to a requisition from the head of the office, department, or agency whose appropriation will be charged, and no contract or order shall be binding on the City unless and until the City Comptroller certifies that there is to the credit of such office, department, or agency a sufficient unencumbered appropriation and allotment balance to pay for the supplies, materials, equipment, or contractual services for which the contract or order is to be used. Before the City makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition. The Council may by ordinance confer upon the Mayor general authority to contract for expenditures without further approval of the Council for all budgeted items not exceeding One Thousand Dollars. All contracts for expenditures involving more than One Thousand Dollars must be expressly approved in advance by the Council. All contracts or purchases involving more than One Thousand Dollars shall be let to the lowest and best responsible bidder after there has been opportunity for competitive bidding as provided for by law or ordinance; provided that the Council, or the Mayor in such cases as he is authorized to contract for the City, shall have the right to reject any and all bids.

Contracts for personal or professional services shall not be let on competitive bids.

SECTION 11.19. INDEPENDENT AUDIT.

At the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall cause a certified independent audit to be made of all accounts of the City by a Certified Public Accountant. Such Certified Public Accountant shall be appointed by the Mayor, subject to the approval of the Council.

ARTICLE XII

TAXATION

SECTION 12.01. DEPARTMENT OF TAXATION.

There shall be a Department of Taxation, the head of which

shall be the City Tax Assessor and Collector. He shall be responsible for the assessment and collection of all taxes levied by the City of Huntsville.

SECTION 12.02. POWERS OF TAXATION.

The City shall have the powers to levy, assess, and collect taxes of every character and type not prohibited by the Constitution and Laws of the State of Texas, and for any municipal purpose.

SECTION 12.03. ASSESSMENT OF PROPERTY FOR TAX PURPOSES.

All property, real, personal, or mixed, situated within the corporate limits of the City of Huntsville on January 1st of each year, not expressly exempt by law, shall be subject to taxation by the City for such year. The Council may prescribe the mode and manner of making renditions, tax lists, assessments, and tax rolls. Every person, partnership, association, or corporation holding, owning, or controlling property within the limits of the City shall, between January 1st and June 1st of each year, file with the City Tax Assessor and Collector a full and complete sworn inventory of such property held, owned, or controlled within said limits on January 1st of each year. The Council may prescribe by ordinance the mode and manner of making such inventories, and penalties for failing or refusing to submit the same. The City Tax Assessor and Collector shall review all renditions made to him and determine the value of the property rendered and fix the value thereof for tax purposes. If the Assessor fixes a value higher than that shown on the owners rendition, he shall give written notice thereof to such owner at his last known address by depositing the same, postage paid, in the United States mail, notifying him of such change and advising him that he may appear before the Board of Equalization to protest such change. In all cases where no rendition of real and personal property is made by the owner thereof, the City Tax Assessor and Collector shall ascertain the amount and value of such property and assess the same, and such assessment shall be as valid and binding as if the property involved had been rendered by such owner, provided that if the City Tax Assessor and Collector shall assess any such property which has

not been previously assessed, or if he shall assess any such property at a higher valuation from that shown on the last preceding tax roll, he shall give notice of such assessment, or such change in assessment, as above provided.

All assessments of real property, whether rendered by the owner or assessed by the City Tax Assessor and Collector, shall list the value of each parcel of land separately; and describe such property sufficiently to identify it, giving the name of the last known owner thereof. If the ownership of any property shall be unknown to the City Tax Assessor and Collector, he shall state that fact. The City Tax Assessor and Collector shall assess all property which has been omitted from assessment in prior years upon a current supplemental assessment roll. The taxes upon such supplemental assessments shall be due at once and if not paid within sixty days thereafter shall be deemed delinquent and shall be subject to the same penalty and interest as other delinquent taxes for such year. In addition to the powers granted by this Section, the City Tax Assessor and Collector shall have the same power as the County Tax Assessor and Collector in Texas to make reassessments, all at the same value and tax rates as such property should have been assessed and taxed for past years and indicating the year or years for which it is assessed.

#### SECTION 12.04. BOARD OF EQUALIZATION.

The Mayor, with the approval of the Council, shall each year prior to June 1st appoint a Board of Equalization composed of not less than three members, none of whom shall be employees, officers, or members of the Council of the City. Each member of said Board shall be a qualified taxpaying voter in the City, shall be well informed upon property values within the City, and shall not be delinquent in the payment to the City of any taxes or assessments or be indebted to the City in any manner. Said Board shall choose from its membership the chairman, who shall preside at all meetings of the Board. Members of the Board during their period of service shall receive such compensation as may be provided by the Council, and shall perform no other duties for the City.

The Board of Equalization shall convene as soon as practicable after June 1st and shall give notice of its time and place of meeting.

The Board shall adjust assessed values, and in addition to the powers herein granted shall have all the powers of a County Commissioners Court in regard to the equalization of assessed values of property for taxation. Whenever the Board shall find it necessary to increase the rendered or assessed value of any property appearing on the assessment rolls, it shall give immediate notice to the owner of such property, or the person rendering the same, and provide said owner an opportunity to appear and show cause why the value of such property should not be changed. The notice herein required may be served by mailing the same to the last known address of the owner, postage paid. The Board shall have the same powers to subpoena property owners of the City, witnesses, books, and records as are granted by the Laws of the State of Texas to the County Board of Equalization and shall have the power to administer oaths and to punish for contempt as provided by ordinance.

The Board shall be governed by such rules and regulations and shall have such additional powers as may be prescribed by ordinance, but it may adopt such further rules and regulations of its own which are not in conflict with any City ordinance or Law of the State of Texas. The Board shall cause a record of its proceedings to be made, and such record shall be preserved to the same extent and in the same manner as other tax records of the City. Immediately upon completion of its work, the Board shall certify its approval of the assessment rolls and forward the same to the Council. The Council shall thereupon approve the assessment rolls and they shall thereby become the assessment rolls of the City for that tax year.

#### SECTION 12.05. TAX PAYMENTS.

All taxes due to the City shall be payable at the office of the City Tax Assessor and Collector and may be paid at any time after assessments have been made final by the Council. The ad valorem taxes levied by the Council shall become due and payable on the first day of October in each year, and the same shall be paid before the first day of February thereafter. All unpaid taxes shall become delinquent as of the first day of February of the year following their assessment, and shall be subject to such penalties and interest as are imposed by the Laws of the State of Texas in case of delinquent State and County taxes or as the Council may provide by ordinance.



SECTION 12.06. TAX LIENS AND LIABILITY.

All property, real, personal, and mixed, situated in the City on the first day of January of each year shall stand charged with a special lien in favor of the City from said date for the taxes due thereon. The liens provided herein shall be superior to all other liens except liens for State and County taxes, regardless of when such other liens were created. All persons purchasing any of said property after the first day of January in any year shall take the same subject to the liens herein provided. In addition to the liens herein provided, the owner on the first day of January of any year of property subject to taxation by the City shall be personally liable for the taxes due thereon for such year. The City shall have power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City assessment rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owner for such taxes.

SECTION 12.07. ARREARS OF TAXES OFFSET TO DEBT AGAINST CITY.

The City shall counterclaim and offset any debt, claim, demand, or account owed by the City to any person, firm, or corporation who is in arrears to the City for taxes, in the amount of taxes so in arrears, and no assignment or transfers of such debt, claim, demand, or account after the said taxes are due, shall affect the right of the City to so offset the said taxes against the same.

SECTION 12.08. OTHER RULES AND REGULATIONS.

Except as otherwise provided by law or by this Charter, the Council shall have the power to provide by ordinance for the assessment and collection of all taxes, and to make such rules, regulations, and mode of procedure to enforce the collection by and payment to the City Tax Assessor and Collector as it may deem expedient, and may provide such penalties for the failure to pay such taxes as it may deem expedient.

ARTICLE XIII  
FRANCHISES AND PUBLIC UTILITIES

SECTION 13.01. INALIENABILITY OF CONTROL OF PUBLIC PROPERTY.

The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication, any right, franchise, or easement affecting such public streets, highways, sidewalks, alleys, parks, public squares, public places, and other real property, except as provided in this Charter.

SECTION 13.02. POWER TO GRANT FRANCHISE.

The Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City and, with consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than thirty years.

SECTION 13.03. ORDINANCE GRANTING FRANCHISE.

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be read at two regular meetings of the Council, and shall not be finally acted upon until thirty days after the first reading thereof. Within five days following each of the two readings of the ordinance, the full text thereof shall be published one time in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

SECTION 13.04. TRANSFER OF FRANCHISE.

No public utility franchise shall be transferred by the holder

thereof except with the approval of the Council expressed by ordinance.

SECTION 13.05. FRANCHISE VALUE NOT ALLOWED.

In fixing reasonable rates and charges for public utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the City under this Charter.

SECTION 13.06. REGULATION OF FRANCHISE.

Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council:

- (a) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised only after hearing and after such reasonable time has expired.
- (b) To impose reasonable regulations to insure safe, efficient, and continuous service to the public.
- (c) To require such expansion, extension, enlargement, and improvement of plants and facilities as are necessary to provide adequate service to the public.
- (d) To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length, and terminals of all facilities of such franchise holder in, over, and under the streets, alleys, and other public properties of the City, and to regulate and control the location, relocation, and removal of such facilities.
- (e) To collect from every public utility operating in the City

such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the streets, alleys, bridges, culverts, viaducts, and other public places of the City as represent the increased cost of such operation resulting from the occupancy of such public places by such public utility, and such proportion of the cost of such operations as results from the damage to or the disturbance of such public places caused by such public utility; or to compel such public utility to perform at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

(f) To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the Council such use shall be in the public interest, provided that in such an event a reasonable rental shall be paid such owner of the facilities for such use. Provided further, that inability of such public utilities to agree upon rental facilities shall not be an excuse for failure to comply with such requirement by the Council.

(g) (1) To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts, and profits of all kind of such franchise holder.

(2) To examine and audit at any time during business hours the accounts and other records of any franchise holder.

(3) To require reports on the operation of the utility, which shall be in such form and contain such information as the Council shall prescribe.

(h) To require that the public utility give notice to any subscriber to its service prior to the permanent or temporary discontinuance or disruption of such service by the public utility, except in cases of emergency, and to require that no officer, agent, servant, or employee of the public utility nor any vehicles or equipment under their control shall make use of, go upon or across any private property in the City without first obtaining the permission of the owner or occupant of such property, except in cases of emergency, and to provide a penalty for the violation of such requirements.

(i) To impose such other reasonable regulations, restrictions, requirements, and conditions as may be deemed necessary or desirable to promote the health, safety, welfare, or accommodations of the public.

#### SECTION 13.07. FRANCHISE RECORDS.

Within six months after the effective date of this Charter, every public utility operating in the City and every owner of public utility franchise within the City shall file with the City Secretary certified copies of all franchises owned or claimed or under which such utility is operating in the City of Huntsville. The City shall compile and maintain a public record of public utility franchises.

#### SECTION 13.08. REGULATION OF RATES.

The Council shall have full power after notice and hearing to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City, provided that no such ordinance shall be passed as an emergency measure. Every franchise holder who shall request an increase in rates, charges, or fares shall have, at the hearing of the Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence the value of its investments properly allowable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service. If, upon such hearing, the Council is not satisfied with the sufficiency of the evidence

so furnished, it shall be entitled to call upon such public utility for the furnishing of additional evidence at a subsequent date to which said hearing may be adjourned. No public utility franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the Council until such franchise holder has filed a motion for rehearing with the Council for a specific date setting out each ground of its complaint against the rate, charge, or fare fixed by the Council, and until the Council shall have acted upon such motion. Such motion shall be deemed overruled unless acted upon by the Council within a reasonable time, not to exceed ninety days from the filing of such motion for rehearing; provided, that the Council may by resolution extend such time limit for acting on said motion for rehearing from ninety days to one hundred eighty days.

#### ARTICLE XIV

##### GENERAL PROVISIONS

##### SECTION 14.01. INTERIM GOVERNMENT.

The present City government of the City shall continue in force and effect until the first day of April, 1969, provided, however, upon the adoption of this Charter the provisions hereof relating to the division of the City into Wards, City general elections, the election of a Mayor and eight Councilmen, qualifications and requirements as candidates and as officers, and the calling and notice of such general election, first and, if necessary, run-off, shall apply and be effective and shall prevail over comparable provisions of the form of Government.

present/ It is the specific intent of this Section to make the provisions of this Charter applicable and effective in all material respects to the election of a Mayor and eight Councilmen as provided for herein at the first City general election, first, and if necessary, runoff, held after the adoption of this Charter; and the incumbent Mayor and Councilmen shall have all of the powers provided for in this Charter necessary to accomplish such results. The new Council elected at such City general election shall have all of the powers provided in this Charter. All other officers and employees of the City shall continue in their present offices and employments until appropriate provisions of this Charter shall be put into effect by ordinance or

resolution of the new Council. Such Council shall, as soon as possible, put this Charter into effect by ordinance or resolution. The new Council, in carrying out the duties imposed by this Section, may put into effect the whole, or may put all or a part of this Charter into effect as to particular offices, departments, or actions of the City. Provided, that this Charter shall go into effect finally and completely without further action by the Council on April 1, 1969, and thereupon all offices, employments, powers, actions, and procedures of the City shall be under and in accordance with this Charter.

The budget adopted for the City for the current fiscal year shall be and become the budget for the same fiscal year under this Charter, and shall be enforced and followed as such, subject to the provisions in the preceding paragraph.

#### SECTION 14.02. CONTINUATION OF GOVERNMENT.

Any ordinance in effect at the time this Charter is adopted, and not otherwise in conflict with this Charter, which refers to some office or employment of the City which ceases to exist under this Charter, shall continue in force and the powers and duties therein prescribed shall be the powers and duties of the office or employment which, under this Charter, succeeds to the same general powers and duties of such office or employment under the previous Charter.

#### SECTION 14.03. EFFECT OF CHARTER ON EXISTING LAW.

All ordinances, resolutions, rules, and regulations in force in the City on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended, or repealed by the Council. All taxes, assessments, liens, encumbrances, and demands, of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter.

SECTION 14.04. OFFICIAL OATH.

All officers of the City shall, before entering upon the duties of their respective offices, take and subscribe the official oath prescribed in the Constitution of the State of Texas.

SECTION 14.05. PUBLIC RECORDS.

All public records of every office, department, or agency of the City shall be open to inspection by any citizen at all reasonable times, provided that police records, vital statistic records, records and files of the Department of Law, and any other records closed to the public by law, shall not be considered public records for the purpose of this Section. During normal office hours, any citizen of the City or any duly authorized representative of the press or other news media shall have the right to make copies thereof under such reasonable rules and regulations as may be prescribed by the Council.

SECTION 14.06. OFFICIAL NEWSPAPER.

The Council shall have the power to contract annually with and, by ordinance or resolution, designate a public newspaper of general circulation in the City as the official organ thereof and to continue as such until another is designated, and shall cause to be published therein all ordinances, notices, and other matters required by this Charter, by the ordinances of the City, and by the Constitution or Laws of the State of Texas to be published.

SECTION 14.07. NOTICE OF CLAIM.

The City of Huntsville shall not be held responsible on account of any claim for damages or injuries to any person, whether such damages or injuries resulted in death or not, or property unless the person making such complaint or claiming such damages or injuries shall, within forty-five days after the time in which it is claimed such damages or injuries were inflicted upon such person or property, file with the City Secretary a true statement under oath as to the nature and character of such damages or injuries, the extent of the same, and the place where same happened, the circumstances under which it happened, the conditions causing same, and a detailed statement of



each item of damages and the amount thereof and, if it be for personal injuries, whether resulting in death or not, giving a list of witnesses, if any, known to affiants who witnessed such accident.

SECTION 14.08. ASSIGNMENT, EXECUTION, AND GARNISHMENT.

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages by its employees.

SECTION 14.09. SECURITY OR BOND NOT REQUIRED.

It shall not be necessary in action, suit, or proceeding in which the City shall be a party for any bond, undertaking, or security to be executed in behalf of the City; but all actions, suits, and proceedings shall be conducted in the same manner as if such bond, undertaking, or security had been given. The City shall have all remedies of appeal provided by law to all courts in this State without bond or security of any kind. For all the purposes of such actions, suits, proceedings, and appeals, the City shall be liable in the same manner and to the same extent as if the bond, undertaking, or security in ordinary cases had been given and executed.

SECTION 14.10. PERSONAL INTEREST IN CITY CONTRACTS.

No member of the Council or other officer or employee of the

City shall be directly or indirectly interested in any work, business, or contract, the expense, price, or compensation of which is paid from the City Treasury, or by an assessment levied by ordinance or resolution of the Council, nor be the surety on the official bond of any officer of the City, nor for any person having a contract, work, or business with said City for the performance of which security may be required, except on behalf of the City as an officer or employee. Any willful violation of this Section shall constitute malfeasance in office and any officer or employee guilty thereof shall be subject to removal from his office or position. Any violation of this Section with the knowledge, expressed or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the Council.

SECTION 14.11. NEPOTISM.

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any Member of the Council shall be appointed to any office, position, clerkship, or other service of the City. This prohibition shall not apply, however, to any person who shall have been employed by the City <sup>for two years</sup> prior to and at the time of the election of the Mayor or Councilmen so related to him.

SECTION 14.12. LIMITATION ON REIMBURSEMENT OF EXPENSES. 7

The Council may authorize the reimbursement of actual and receipted expenses incurred by any officer or employee of the City while acting in the City's behalf in his official capacity; provided, the Mayor shall not be entitled to such reimbursements exceeding Five Hundred Dollars for each fiscal year and Councilmen shall not be entitled to such reimbursements in an amount exceeding Five Hundred Dollars each for each fiscal year. It is specifically provided, however, that such limitations shall apply only to reimbursed expenses and shall not restrict or limit the authority of the Council to authorize expenditures by the Mayor or Councilmen for such purposes in excess of such amounts prior to the time such expenditures are made.

**SECTION 14.13. MINERAL LEASES ON CITY OWNED PROPERTY.**

No City owned property or any part thereof shall be leased for the purpose of prospecting for, mining, drilling, or producing oil, gas, or other minerals therefrom unless such lease agreement specifically provides that the City shall retain a royalty interest equivalent to at least one-eighth of the total production of such oil, gas, or other minerals therefrom.

**SECTION 14.14. SALE OR LEASE OF REAL ESTATE.**

(a) No public park shall be sold, or any part thereof, until the question of such sale has been submitted to a vote of the qualified voters of the City and approved by a majority of the votes cast at such elections.

(b) No sale or lease of real estate shall be made by the Council without first causing to be advertised for bids by a notice in the official newspaper of the City for two consecutive weeks setting out the property proposed to be sold or leased, the conditions under which the bids would be received, and the time and place they would be opened.

**SECTION 14.15. LIMITATIONS ON CONTRACTS.**

The Council may award contracts only at regular meetings of the Council except in the event of grave public emergency or calamity. It is further provided that from the date of any City general election until the members of the Council elected at such election have duly qualified and taken office, the Council shall not create, make, or enter into any contract for the purchase of materials, supplies, land, or buildings, or for the construction or repair of any public building or the carrying on of any public work, or professional services requiring or authorizing any expenditure in excess of One Thousand Dollars which creates or imposes on the City any obligation or liability of any nature or character whatsoever, except in the event of grave public emergency or calamity. It is specifically provided, however, that this provision shall not apply to contracts lawfully authorized prior to any City general election or to contracts which may hereafter be lawfully authorized by a vote of the qualified voters of the City, or to contracts made for the purpose of continuing the normal

functions of any regularly established department of the City. Any and all contracts hereafter made by the City in violation of the terms of this provision shall be void and shall not be enforceable in any court of this State, and the performance of same and the payment of any money thereunder may be enjoined by any property tax-paying citizen of the City. All contracts, plans and specifications for public works, and payment and performance bonds made under any contracts, in which the City is a party of interest shall be made a part of the public records of the City, and a copy of each such contract, plans and specifications, and payment and performance bonds shall be delivered to the Huntsville Public Library for filing in its public journals and shall be kept for that purpose for at least six years from the date of such contract, plans and specifications, or payment and performance bonds.

**SECTION 14.16. QUALIFICATIONS OF CONTRACTORS.**

All contractors who bid and/or contract with the City for the construction or repair of public works must meet the bid requirements and possess the qualification as required by the City Council.

**SECTION 14.17. PARTICIPATION OF CITY EMPLOYEES OR USE OF CITY EQUIPMENT IN MUNICIPAL POLITICS.**

No officer or employee of the City shall be required to participate in any City election in behalf of any candidate for Mayor or Councilman, nor shall any City equipment be used by or in behalf of any candidate for Mayor or Councilman.

**SECTION 14.18. HEALTH, LIFE, AND ACCIDENT INSURANCE FOR CITY EMPLOYEES.**

The City Council shall have the power, exercisable in its discretion, and subject to such limitations and regulations as it may deem proper to create, operate, amend, and contract for an insurance plan covering health, life, and accident insurance, or any of them, for any and all City officers and employees, except members of the Council, and to pay any portion of the premiums therefor.

**SECTION 14.19. PUBLICITY OF REPORTS RELATING TO MUNICIPAL MATTERS.**

All reports made by the State of Texas or any of its agencies,

or departments concerning the City or any function performed by it shall be read publicly at the first regular meeting of the Council following receipt of such report.

SECTION 14.20. VIOLATION OF CHARTER PROVISION OR LAWS OF THE STATE OF TEXAS.

Any willful violation of the provisions of this Charter or of the Laws of the State of Texas relating to Home Rule Cities shall constitute malfeasance in office, and any officer or employee of the City guilty thereof shall immediately forfeit his office or position, and said office or position shall be deemed vacant.

SECTION 14.21. REARRANGEMENT AND RENUMBERING.

The Council shall have the power, by ordinance, to renumber and rearrange all Articles, Sections, and paragraphs of this Charter, or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance, a copy thereof, certified by the City Secretary, shall be forwarded to the Secretary of State for filing.

SECTION 14.22. JUDICIAL NOTICE.

This Charter shall be deemed a public act, and shall have the force and effect of the general law, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.

SECTION 14.23. CONSTRUCTION OF CHARTER.

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5, of the Constitution of Texas, which it would be competent for the people of the City of Huntsville to grant expressly to the City, shall be construed to be granted to the City by this Charter.

SECTION 14.24. SEVERABILITY CLAUSE.

If any Section or part of a Section of this Charter is held to

. invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force, or effect of any other Section or part of a Section of this Charter.

SECTION 14.25. AMENDMENT.

Amendments to this Charter shall be framed and submitted to the voters of the City in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1925, until now or hereafter amended.

SECTION 14.26. SUBMISSION OF CHARTER TO ELECTORS.


The Charter Commission in preparing this Charter finds and declares that it is impracticable to segregate each subject so that each voter may vote "Yes" or "No" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it be adopted in its entirety. For these reasons, the Charter Commission directs that said Charter be voted upon as a whole, and that it shall be submitted to the qualified voters of the City of Huntsville at an election to be held for that purpose on the 28th day of September, 1968. If said Charter is approved by a majority of the qualified voters, voting at said election, it shall become the Charter of the City of Huntsville upon the entering upon the records of said City by the governing body of such City an official order declaring the adoption of said Charter. We, the undersigned, members of the City of Huntsville Charter Commission, <sup>HEREUNTO DULY AUTHORIZED</sup> ~~members elected~~ to frame a ~~new~~ Charter for the City of Huntsville, do hereby certify that the attached and foregoing constitutes a true copy of the proposed Charter framed by us for said City of Huntsville, Texas. We further certify that we have completed our work this the 1st day of July, 1968.

Respectfully submitted,

The Charter Commission of the City of Huntsville, Texas

  
Robert B. Smither, Chairman

  
Charles S. Davis, Secretary

  
Dr. James D. Long

  
Herbert E. Hoech

Charter Commission (continued)

C.E. Allen  
Connie E. Allen

Jack D. Kyle  
Jack D. Kyle

Wilbourn T. Robinson, Sr.  
Wilbourn T. Robinson, Sr.

Clinton R. Hackney  
Dr. Clinton R. Hackney

Frank V. Sprott  
Frank Sprott